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Court Expert

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN ARMSTRONG, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. CV 94-2307 CW

**COURT EXPERT'S QUARTERLY
REPORT ON INVESTIGATIONS AND
DISCIPLINE**

Pursuant to the Court's orders for remedial measures at the *Armstrong* Six prisons (RJD, LAC, COR, SATF, CIW, and KVSP) (the Remedial Plan), the Court Expert provides the following report on implementation of CDCR's new investigations and discipline system.

As set forth below, the parties have engaged in extensive negotiations that have resulted in significant changes to various elements of the investigations and discipline system. Principally, recent efforts have focused on reducing caseload at the Allegation Inquiry Unit (AIU) of the Office of Internal Affairs (OIA). The Court Expert commends both parties for their hard work, good faith in negotiations, and willingness to reach sensible compromises in their efforts to improve the system.

1 The situation continues to be dire: the data on on-time completion rates shows 94% of
 2 cases received by AIU in the second quarter of 2025 were not investigated within the Remedial
 3 Plan timelines, indicating the caseloads continue to be too high for the available investigative
 4 staff. Lack of compliance with the Remedial Plan is not the only problem created by high
 5 caseloads. Overworked investigators may not conduct comprehensive and unbiased
 6 investigations, and the statute of limitations may lapse before an investigation is complete or
 7 before a hiring authority imposes discipline.¹

8 **Stipulated order on investigations and discipline**

9 Negotiations were finalized this quarter and memorialized in a stipulated order entered by
 10 the Court on September 26 (Docket 3721) that addresses three aspects of the investigations and
 11 discipline process. First, as the Court Expert has previously reported, CDCR created a new hiring
 12 authority, the CARU (Centralized Allegation Resolution Unit), to review investigations and
 13 make disciplinary decisions regarding staff misconduct allegations from the *Armstrong* Six
 14 prisons. CDCR's intent in creating the CARU was to improve and make more consistent hiring
 15 authority disciplinary decisions as well as to relieve wardens of the workload of investigation
 16 review. The order lays out the minimum time frame that CARU will operate (through December
 17 2026), identifies its responsibilities, and creates a framework for the parties to evaluate its
 18 effectiveness in improving disciplinary decisions.

19 Second, the order memorializes the parties' agreement for CDCR's retention of an expert
 20 to review CDCR's policies and practices concerning staff uses of force. The consultant will
 21 make recommendations on possible reforms and improvements to the use of force policies and
 22 practices. In addition, the consultant will evaluate the possibility of an entity other than OIA
 23 conducting reviews of staff misconduct complaints alleging use of force. Currently, incidents
 24 involving use of force are reviewed by both the Institutional Executive Review Committee
 25 (IERC) at each institution and by OIA. The consultant will evaluate whether and under what

26
 27 ¹ CDCR has explained that, even if the statute of limitations lapses, it completes investigations
 28 and documents whether the allegation is sustained. However, adverse action is not possible when
 the statute of limitations has passed, although training or other corrective action may still be
 imposed.

1 circumstances the IERC, or some entity other than OIA, could conduct comprehensive and
 2 unbiased investigations of staff misconduct complaints involving uses of force. If feasible,
 3 moving use of force investigations out of OIA and to another body would significantly ease the
 4 workload on OIA staff.

5 Third, the stipulation memorializes the parties' agreement on certain modifications to the
 6 process by which the Centralized Screening Team (CST) reviews complaints to determine
 7 whether they will be reviewed by OIA (for complaints alleging more serious forms of staff
 8 misconduct) or by the local institutions (for complaints that either do not allege staff misconduct
 9 or allege less serious forms of it). As the Court Expert has previously reported, CDCR has
 10 implemented a process for cases arising out of non-*Armstrong* Six prisons that allows CST to
 11 review the merits of certain complaints before determining whether they will be routed to OIA or
 12 local institutions. The stipulated order allows CST to employ those same procedures for
 13 complaints from the *Armstrong* Six prisons through March 6, 2026. The purpose of this
 14 modification is to reduce the flow of cases into OIA and ease the workload on its investigators.

15 **Amendments to regulations**

16 The parties have conducted extensive negotiations concerning changes to the regulations
 17 that govern the staff misconduct process, and CDCR has promulgated draft amendments.² The
 18 proposed regulations address a number of areas that have been the subject of discussions
 19 between the parties.

20 As the Court is aware, CST reviews complaints to determine if they allege a form of staff
 21 misconduct that merits investigation by AIU rather than by local institutions. The principal tool
 22 for that review is the Allegation Decision Index (ADI), which sets forth the categories of
 23 misconduct that CST must route to AIU. The parties agree, however, that just because a
 24 complaint satisfies the ADI criteria does not necessarily mean it merits a full AIU investigation,
 25 and a large caseload of minor or frivolous claims overburdens the investigators and affects their
 26

27 ² *Staff Misconduct, Employee Discipline, and Administrative Remedies of Grievances and*
 28 *Appeals (NCR 25-06)*, available at <https://www.cdcr.ca.gov/regulations/cdcr-regulations/pending-changes-to-department-rules-2/>.

1 ability to conduct comprehensive and unbiased reviews of more serious allegations.³ Conversely,
2 evidence developed during local institution review of allegations that do not meet ADI criteria
3 may indicate that the complaint is more serious than it initially appeared and should be handled
4 by AIU. Several proposed regulatory changes are intended to ensure that investigations take
5 place at the appropriate level.

6 *Frequent filers.* A CDCR analysis of misconduct allegations revealed that a large number
7 of complaints are filed by a handful of incarcerated individuals, and frequently those complaints
8 raise the same allegations over and over. The parties have developed a separate process for these
9 “frequent filer” complaints. Broadly speaking, complaints from the most frequent filers will be
10 reviewed to determine whether they should be investigated by AIU or whether they should be
11 sent to a new Grievance Resolution Team (GRT) consisting of representatives from CST, the
12 Office of Grievances, and the Office of Appeals, who will meet on a monthly basis with the
13 filers to address any matters not investigated by AIU. Should the GRT’s review of the
14 complaints reveal that AIU investigation is merited, those claims will be routed back to OIA.
15 (Although the parties are in broad agreement about this process, plaintiffs have raised questions
16 about how it interacts with reasonable accommodation requests.)

17 *Rapid closure of certain investigations.* The parties also agree that as AIU investigators
18 review the evidence, it may become appropriate to end certain investigations without further
19 work. The proposed regulations provide a mechanism for rapid closure of cases where, for
20 instance, the allegation lacks sufficient detail for investigation, or where video and documentary
21 evidence proves conclusively that alleged misconduct did not occur. While plaintiffs agree with
22 these proposed processes, their review of closed case files continues to reveal instances where
23 investigators have failed to timely request video footage, resulting in it being deleted before the
24 investigators can review it, or have requested footage but failed to obtain the relevant footage.
25 These problems, which have persisted for years, call into question AIU’s ability to accurately
26 identify instances where rapid closure would be appropriate. As noted in the Court Expert’s last

27 ³ The parties are discussing a protocol for reviewing a sample of AIU cases to assess whether
28 and to what extent AIU’s caseload includes complaints that do not merit full investigation
despite satisfying the ADI.

1 report, CDCR has responded to these concerns by making changes in AIU's procedures for
2 obtaining video evidence. The parties and the Court Expert will be monitoring cases to assess the
3 effectiveness of these changes.

4 *Elevation of local investigations to AIU.* As the Court Expert has reported, CDCR has
5 eliminated the position of Locally Designator Investigators (LDIs), who previously reviewed less
6 serious staff misconduct allegations that were not routed to AIU. Such complaints are now
7 handled by local Offices of Grievances. The new draft regulations, which the parties are still
8 discussing, outline circumstances under which OOG staff will suspend their review and elevate
9 complaints to AIU.

10 **Case volume and investigation and discipline timelines**

11 Data from CDCR suggests that the changes made by the parties have started to have an
12 effect on AIU caseload. An average of 6,000 complaints were filed each month at the *Armstrong*
13 Six prisons during the most recent three months for which data is available (May-July 2025),
14 compared with 5,700 per month for the preceding nine months. But while the total number of
15 complaints has risen, the number of cases routed to OIA has dropped. On average, OIA received
16 314 cases per month from May-July, compared to an average of 400 per month for the preceding
17 nine months. This is consistent with changes to the ADI and screening procedures that have
18 resulted in more cases being sent to local Offices of Grievance. Investigators are still spending
19 the same amount of time (around 27 hours on average) on each case, but the rate at which
20 investigations are closed on time has dropped even further. The most recent data available
21 concern cases received by AIU in March 2025. Under the Remedial Plan, those investigations
22 should be complete: cases assigned to lieutenants and sergeants should have been completed by
23 July 2025 (120 days from receipt), and those assigned to special agents were due to close by
24 September 2025 (180 days).⁴ But of 369 cases received by AIU in March 2025, only 23 (6%)
25 closed within those timeframes.

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28 ⁴ Only 18 cases (out of 4,700 total received by AIU) have been assigned to special agents in the
past year, and only two of those were assigned in the last nine months.

Review of closed cases

Dated: September 30, 2025

/s/
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